

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**In the Matter of:**

**SUNOCO, INC. (R&M)**

**Marcus Hook Refinery**

**West Delaware Avenue and Green Street :**

**Marcus Hook, PA 19061-0426,**

**Respondent.**

**Marcus Hook Refinery**

**West Delaware Avenue and Green Street :**

**Marcus Hook, PA 19061-0426,**

**Facility.**

**U.S. EPA Docket Number**

**RCRA-3-2001-0001**

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**CONSENT AGREEMENT**

**Preliminary Statement**

1. This Consent Agreement is entered into by the Associate Director for Enforcement of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III ("EPA", "Agency" or "Complainant") and Sunoco, Inc. (R&M) ("Respondent") pursuant to Section 3008(a) of the Resource Conservation and Recovery Act of 1976, as amended by, *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. This Consent Agreement and the accompanying Final Order (collectively referred to as the "CA/FO"), address violations by Respondent which occurred at Respondent's facility located at the Marcus Hook Refinery, West Delaware Avenue and Green Street in Marcus Hook, Pennsylvania ("Facility"), and were alleged in the Administrative Complaint,

Compliance Order and Notice of Opportunity for Hearing ("Complaint") issued by Complainant to Respondent on May 16, 2001. More specifically, the Complaint alleges violations by Respondent of RCRA, the federal regulations implementing RCRA as set forth at 40 C.F.R. Parts 260-266, 268, 270-73 and 279, and the authorized Commonwealth of Pennsylvania Hazardous Waste Management Regulations authorized by EPA pursuant to RCRA Section 3006, 42 U.S.C. § 6926.

2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations of the Complaint.

3. Except as provided in Paragraph 2, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions contained in the Complaint or in the CA/FO.

4. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement thereof.

5. For purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in the Complaint.

6. Respondent consents to the issuance of this Consent Agreement and the accompanying Final Order and agrees to comply with their terms.

7. Respondent shall bear and be responsible for payment of its own costs and attorney's fees.

#### **Findings of Fact and Conclusions of Law**

8. The Findings of Fact and Conclusions of Law as set forth in the Complaint are incorporated into this Consent Agreement as if fully set forth at length herein, subject to Paragraphs 2 and 3, above.

#### **Administrative**

9. A. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Consent Agreement, shall include a certification by a responsible corporate officer of Respondent. For purposes of such certification, a responsible corporate officer of Respondent means: 1. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the

corporation; or 2. the manager of one or more manufacturing production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of Respondent:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Signature: \_\_\_\_\_

Name: Kevin Robles

Title: Manager, Operations

B. Mailings and other submissions

To EPA: Documents to be submitted to EPA pursuant to or concerning this CA/FO shall be sent via certified mail, return receipt requested, first class mail, or overnight commercial delivery service to the attention of:

Jose Jimenez (3WC31)  
RCRA Enforcement and Compliance Officer  
United States Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029, and

Joseph J. Lisa III, Esq.  
Senior Assistant Regional Counsel (3RC30)  
United States Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

**To Respondent:** Documents to be submitted to Respondent pursuant to or concerning this CA/FO shall be sent via certified mail, return receipt requested, first class mail, or overnight commercial delivery service to the attention of:

Eric V. Schneider  
Environmental Manager  
Sunoco, Inc. (R&M)  
P.O. Box 426  
Marcus Hook, PA 19061-0426, and

Thomas S. Stammel, Esq.  
Senior Counsel  
Sunoco, Inc. (R&M)  
P.O. Box 426  
Marcus Hook, PA 19061-0426.

**Other Applicable Laws**

10. Nothing in this CA/FO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state or local laws and/or regulations.

**Civil Penalty**

11. In settlement of the above-captioned action, Respondent agrees to pay a civil penalty in the amount of Six Thousand Nine Hundred Dollars (\$6,900.00). Payment of the aforesaid civil penalty shall be made by Respondent in one (1) payment not later than thirty (30) calendar days from the effective date of this CA/FO. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors, as provided in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), of seriousness of Respondent's violation and good faith efforts by Respondent to comply with all applicable requirements of RCRA, the federal regulations implementing RCRA and the authorized Pennsylvania Hazardous Waste Management Regulations and in consideration of the October, 1990 "RCRA Civil Penalty Policy".

12. Payment of the civil penalty required under the terms of Paragraph 11, above, may be made by sending a certified or cashier's check, made payable to the "Treasurer, United States of America", to the following address:

U.S. EPA Region III  
Regional Hearing Clerk  
P.O. Box 360515  
Pittsburgh, Pennsylvania 15251-6515.

Overnight delivery of the civil penalty payment shall be sent to the following address:

Mellon Client Service Center  
Room 670  
500 Ross Street  
Pittsburgh, PA 15262-0001  
ATTENTION: EPA, Region III, P.O. Box 360515.

Payment of the civil penalty required under the terms of Paragraph 11, above, may also be made by wire transfer to the credit of EPA Account No. 9108552, Lockbox No. 360515 at:

Mellon Bank  
Pittsburgh, PA  
ABA No. 043000261.

The required form of payment shall reference the name and address of Respondent's facility, Respondent's name and address, and the EPA Docket number of this Consent Agreement. A copy of Respondent's check, or a copy of Respondent's wire transfer, shall be sent simultaneously to the attention of:

Regional Hearing Clerk (3RC00)  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania, 19103-2029; and

Joseph J. Lisa III, Esq.  
Senior Assistant Regional Counsel (3RC30)  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania, 19103-2029.

13. Failure by the Respondent to comply with the requirements of this CA/FO may

subject Respondent to an additional enforcement action, including, but not limited to, the issuance of an Administrative Complaint and imposition of penalties, as provided by Section 3008 of RCRA, 42 U.S.C. § 6928, and the Final Order.

**Reservation of Rights**

14. This Consent Agreement and the attached Final Order resolve only those civil claims for the specific violations which are alleged in the Complaint. Nothing in the aforesaid documents shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment, nor shall anything in the aforesaid documents be construed to resolve any claims for criminal sanctions now pending or that may be sought in the future, and the United States reserves its authority to pursue criminal sanctions. Furthermore, Complainant reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and the attached Final Order following entry of the CA/FO.

**Parties Bound**

15. This Consent Agreement and the attached Final Order shall apply to and be binding upon the parties hereto, their officers, directors, employees, agents, successors and assigns. The person signing this Consent Agreement on behalf of the Respondent acknowledges by his or her signature that he or she is fully authorized to enter into this Agreement and to bind contractually and legally the Respondent to the terms and conditions of this Consent Agreement, and the attached Final Order.

**Effective Date**

16. The effective date of this Consent Agreement and the attached Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA - Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk, pursuant to the Consolidated Rules of Practice.

**Entire Agreement**

17. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the attached Final Order.

For the Respondent:

Sunoco, Inc. (R&M)

Date: 6/7/01

By: K Robles  
Name: Kevin Robles  
Title: Manager, Operations

For the Complainant:

United States Environmental Protection Agency  
Region III

Date: 6/11/2001

By: Joseph J. Lisa III  
Joseph J. Lisa III  
Senior Assistant Regional Counsel  
U.S. EPA Region III

After reviewing the Findings of Fact, Conclusions of Law and other pertinent matters, the Waste and Chemicals Management Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator, or his designee, issue the attached Final Order.

Date: 06/14/2001

By: James N. Webb  
James N. Webb  
Associate Director for Enforcement  
Waste and Chemicals Management Division  
U.S. EPA Region III

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**U.S. EPA Docket Number  
RCRA-3-2001-0001**

**FINAL ORDER**

Complainant, the Associate Director for Enforcement of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency - Region III, and Respondent, Sunoco, Inc. (R&M), have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. §§ 22.18(b)(2) and 22.18(b)(3).

I have taken into account the serious of Respondent's violation and Respondent's good faith efforts to comply with its regulatory obligations as described in Section 3008(a)(3) of the



Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(3), concerning the settlement set forth in the attached Consent Agreement.

As a result, Respondent shall pay within thirty (30) calendar days of the effective date of this Final Order and the attached Consent Agreement a civil penalty in the amount of Six Thousand Nine Hundred Dollars (\$6,900.00) and is hereby ordered to comply with the terms and conditions of this Final Order and the attached Consent Agreement. Payment of the civil penalty shall be made by sending a cashier's check or certified check made payable to the "Treasurer, United States of America" within thirty (30) calendar days of the effective date of this CA/FO, to the following address:

U.S. EPA Region III  
P.O. Box 360515  
Pittsburgh, PA 15251-6515.

Overnight delivery of the civil penalty payment shall be sent to:

Mellon Client Service Center  
Room 670  
500 Ross Street  
Pittsburgh, PA 15262-0001  
ATTENTION: EPA, Region III, P.O. Box 360515.

Payment of the civil penalty may also be made by wire transfer to the credit of EPA Account No.

9108552, Lockbox No. 360515 at:

Mellon Bank  
Pittsburgh, PA  
ABA No. 043000261  
(Customer Service Number: (412) 234-4381).

The required payment shall reference the name and address of Respondent's facility,

Respondent's name and address, and the EPA Docket number of the accompanying Consent Agreement and this Final Order. Respondent shall simultaneously send notice of such payment, including a copy of the check or a copy of Respondent's wire transfer, to the following:

Regional Hearing Clerk (3RC00)  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103, and

Joseph J. Lisa III, Esq. (3RC30)  
Senior Assistant Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103.

Respondent's failure to make timely payment of the civil penalty required herein or to comply with the terms and conditions of the attached Consent Agreement and this Final Order may result in referral of this matter to the United States Attorney for enforcement of the attached Consent Agreement and this Final Order in the appropriate United States District Court, or may result in other action by Complainant.

The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty or any additional penalties as provided for in the attached Consent Agreement are not paid as directed.

Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest will begin to accrue on any unpaid amount if it is not paid within thirty (30) calendar days of the due dates as established in the

accompanying Consent Agreement. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged on all debts. 40 C.F.R. § 13.11(b). Pursuant to EPA's Resources Management Directives System, Chapter 9, EPA will assess a \$15.00 handling charge for administrative costs on unpaid penalties for the first 30-day period after a payment is due and an additional \$15.00 for each subsequent 30 days the penalty remains unpaid. In addition, a penalty will be assessed on any portion of the debt which remains delinquent more than ninety (90) calendar days after payment is due. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due pursuant to 4 C.F.R. § 102.13(e).

To avoid the assessment of interest or other penalties, Respondent must pay the civil penalty as provided above within thirty (30) calendar days of the effective date of this Final Order and the attached Consent Agreement.

The effective date of this Final Order and the Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 6/28/01

BY: Renee Sarajian  
Renee Sarajian  
Regional Judicial Officer  
U.S. EPA Agency Region III

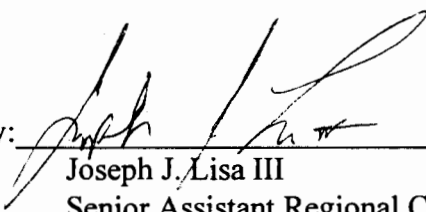
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, on the date provided below, the original and one true and correct copy of the Consent Agreement, Final Order and Settlement Conditions Document executed with regard to the above-captioned matter were hand-delivered to and filed with the Regional Hearing Clerk (3RC30), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103-2029 and that true and correct copies were served via overnight mail upon the following:

Eric V. Schneider  
Environmental Manager  
Sunoco, Inc. (R&M)  
P.O. Box 426  
Marcus Hook, PA 19061-0426, and

Thomas S. Stammel, Esq.  
Senior Counsel  
Sunoco, Inc. (R&M)  
P.O. Box 426  
Marcus Hook, PA 19061-0426.

Date: 6/22/01

By:   
Joseph J. Lisa III  
Senior Assistant Regional Counsel  
U.S. EPA - Region III

(August 18, 1998)), and the Permit for Hazardous Waste Storage (Permit No. HW99A09) issued by the State of Delaware to the U.S. Air Force, as alleged below in Paragraph 9 of this CA.

2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the accompanying Final Order.

3. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this Consent Agreement, except as provided in Paragraph 2, above.

4. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO"), the issuance of the accompanying Final Order, or the enforcement of the CAFO.

5. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.

6. Respondent consents to the issuance of this Consent Agreement and the accompanying Final Order and agrees to comply with their terms.

7. Respondent shall bear its own costs and attorney's fees.

**Notice of Action to the State of Delaware**

8. EPA has given the State of Delaware prior notice of the issuance of this Consent Agreement and the accompanying Final Order in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

**Findings of Fact and Conclusions of Law**

9. In accordance with 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

- A. Respondent, the United States Department of the Air Force ("Air Force"), is a "person" as defined by DRGHW Section 260.10, RCRA Section 1004(15), 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10.
- B. The Dover Air Force Base ("Facility", "installation" or the "DAFB") is located in the State of Delaware.

- C. Respondent is and has been, at all times relevant to this Consent Agreement, including, but not limited to, August 29, 1998, through the effective date of this Consent Agreement, the “owner” of the DAFB as that term is defined by DRGHW Section 260.10 and 40 C.F.R. § 260.10, including, specifically, the hazardous waste management units referred to herein.
- D. At all times relevant to this Consent Agreement, Respondent has been the “operator” of the DAFB as that term is defined by DRGHW Section 260.10 and 40 C.F.R. § 260.10, including, specifically, the hazardous waste management units referred to herein.
- E. The State of Delaware has issued to Respondent for the DAFB a Permit for Hazardous Waste Storage at designated units located at the DAFB (Permit Number HW99A09) (the “Permit”). The DAFB has an ID Number of DE8570024010.
- F. At all times relevant to this Consent Agreement, Respondent has generated at the DAFB “solid wastes” and “hazardous wastes” as those terms are defined by DRGHW Sections 260.10, 261.2 and 261.3, RCRA Section 1004(5) and (27), 42 U.S.C. § 6903(5) and (27), and 40 C.F.R. §§ 260.10, 261.2 and 261.3.
- G. At all times relevant to this Consent Agreement, Respondent has been a “generator” of solid waste and hazardous waste at the DAFB as that term is defined by DRGHW Section 260.10 and 40 C.F.R. § 260.10.
- H. At all times relevant to this Consent Agreement, Respondent has been engaged in and/or responsible for the “storage” and/or “disposal” of solid and hazardous wastes at the DAFB as those terms are defined by DRGHW Section 260.10, RCRA Section 1004 (3) and (33), 42 U.S.C. § 6903(3) and (33), and 40 C.F.R. § 260.10.
- I. The DAFB is and, for all times relevant to this Consent Agreement, has been a hazardous waste treatment, storage and/or disposal “facility” as that terms is defined by DRGHW Section 260.10 and 40 C.F.R. § 260.10.
- J. On August 27, 1998, the United States Environmental Protection Agency (“EPA” or the “Agency”) conducted a RCRA Compliance Evaluation Inspection (“CE Inspection”) of the DAFB.

**Count I**

- K. At all times relevant to this Consent Agreement, the Permit has covered, *inter alia*, the storage of hazardous waste in Building No. 1306 at the DAFB.
- L. Module III, Section F of the Permit requires that Respondent comply with DRGHW Section 264.175 and the Plans and Specifications attached to the Permit as Attachment No. 5. DRGHW Section 264.175 provides, in pertinent part, that the containment system of a container storage area, like the area in Building No. 1306, must consist of a base that is free of cracks or gaps and sufficiently impervious to contain leaks, spills, and any accumulated precipitation until any leaked, spilled or accumulated material is detected, collected and removed.
- M. At the time of EPA's inspection on August 27, 1998, Respondent was storing containers of hazardous waste in Building No. 1306 at the DAFB on a base that was neither free of cracks or gaps nor sufficiently impervious to contain leaks, spills, and any accumulated precipitation until the collected material is detected and removed as required by Module III, Section F of the Permit. More specifically, a circular opening was discovered near the storage bays' entrance ways.
- N. Respondent violated Module III, Section F of the Permit by failing to comply with DRGHW Section 264.175 and by failing to store hazardous waste in Building No. 1306 at the DAFB on a base free of cracks or gaps and sufficiently impervious to contain leaks, spills, and any accumulated precipitation until any leaked, spilled or accumulated material is detected, collected and removed.

Count II

- O. RCRA Section 3005(a) and (e), 42 U.S.C. § 6925(a) and (e), provide, in pertinent part, that the treatment, storage or disposal of hazardous waste is prohibited except in accordance with a permit or interim status.
- P. DRGHW Section 122.1 and .70 (40 C.F.R. § 270.1 and .70) provide that the owner or operator of a hazardous waste management unit must have a permit during, *inter alia*, the active life of such unit unless such unit has qualified for interim status under DRGHW Section 122.70.
- Q. DRGHW Section 262.34(c)(1) provides, in pertinent part, that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in DRGHW Section 261.33(e) in containers